



# Memorandum

**TO:** Mayor and City Council

**SUBJECT:** Plugging Loopholes in Campaign  
Contribution Limits

**FROM:** Chuck Reed

**DATE:** August 15, 2005

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## RECOMMENDATION

The Council should direct staff to Amend the Municipal Code to provide that San Jose elections:

1. Employers who pay their employees to work on political campaigns are subject to San Jose's campaign contribution limits as if the payments were made directly to the campaign committee.
2. Campaign committees who receive services from people who are being paid while working on the campaign must report those services as campaign contributions subject to San Jose's limits.

## BACKGROUND:

Candidates for city offices are limited by the Municipal Code in the amount of contributions they may accept in the form of money or goods. The limits are \$250 for Council campaigns and \$500 for the Mayoral campaigns. Limitations on campaign contributions have long been a part of San Jose politics

**“for the purpose of preventing the perception by the public that campaign contributors exercise undue or improper influence over elected officials.”** (Municipal Code, Ethics Provisions, section 12.06.200)

As a result of a state regulatory interpretation of the definition of contribution, we now have an enormous loophole in the San Jose system. (See the memo from the City Attorney dated April 7, 2005 for details.) This loophole makes our contribution limits nearly meaningless. Employers are now allowed to help candidates by paying their employees unlimited amounts to work for a candidate or an independent expenditure committee supporting a candidate.

Such payments are not required to be reported as contributions by candidates or committees, and they are not subject to San Jose's contribution limits if they are made **“pursuant to a uniform policy allowing employees to engage in political activity.”** (FPPC Regulation 18423)

Here are some examples of “uniform policies” that could be made by employers:

Employees of the cardroom are allowed to engage in political activity on company time if they work in support of candidates in San Jose who support 24 hour operations for cardrooms.

Business Managers, Business Agents and Business Representatives are allowed to engage in political activity on the job if they work in support of candidates endorsed by the South Bay Labor Council's Committee on Political Education.

Salaried employees of the company are allowed to engage in political activity on company time if they work in support of candidates who are endorsed by COMPAC.

Employees in the Government Affairs Department are allowed to engage in political activity full time during the three months before an election.

Employees of the firm are allowed to engage in political activity on firm time if they work in support of candidates who have been endorsed by clients who have retained the firm for lobbying services.

Employees of the company are allowed to engage in political activity on company time if the work in support of candidates who support development in Coyote Valley.

Under these "uniform policies" companies, lobbyists or unions who wanted to enhance their political influence could hire employees who would then work full time on political campaigns. The candidate would receive tens of thousands of dollars of value, but none of it would be subject to campaign contribution limits. Candidates could solicit and receive help from "free" campaign workers long before the fund raising period begins (now set at 180 days before election day).

San Jose limits the amount a Council candidate can spend to about \$95,000. Getting some "free" campaign workers could be worth far more than the total amount a candidate is allowed to spend. When candidates for Mayor are asking for contributions, a \$500 check pales in comparison to the value of a paid campaign worker.

Allowing unlimited contributions of "free" campaign worker will do far more than feed the perception by the public that campaign contributors exercise undue or improper influence over elected officials. This "free" campaign workers loophole will destroy the concept of campaign contribution limits in San Jose. This loophole will give wealthy special interests groups an open door to control politics in San Jose.

This loophole must be plugged.



Chuck Reed  
Councilmember

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cc: City Clerk